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TAGS: [ASEC](#) [PGOV](#) [PHUM](#) [ZI](#)  
SUBJECT: STEVENSON ATTACK TRIAL COMMENCES

REF: A. REF A: HARARE 803 AND PREVIOUS

[1](#)B. REF B: HARARE 112

Classified By: Ambassador Christopher Dell for reasons 1.5 b/d

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Summary  
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[1](#)1. (C) The trial of six youths accused of assaulting pro-Senate MDC MP Trudy Stevenson and four other pro-Senate faction officials resumes on July 20 (ref A). The lawyer for three of the accused contends that the evidence is circumstantial and that only one of the victims was able to identify the alleged attackers. Legal contacts tell us that the magistrate assigned to the case has a history of slanting rulings in the GOZ's favor. Separately, anti-Senate MDC MP Timothy Mubawu was arrested on July 10 for allegedly ordering the attack. Meanwhile, the independent commission of inquiry established by the anti-Senate faction has interviewed Stevenson and another victim, but has been otherwise rejected by the pro-Senate faction. End Summary.

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Attackers' Trial Opens With Suspect Judge Presiding  
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[1](#)2. (C) Three alleged attackers appeared in court on July 12, but Magistrate William Bhila quickly granted a postponement until July 20 so that prosecutors could also try three additional suspects who had been arrested earlier that day. Defense attorney Douglas Mwonzora told post on July 14 that the state's case against the initial three suspects was weak and circumstantial and that his clients maintained their innocence. Only one of the victims was able to identify the suspects, despite the fact that several of the other victims were active in Mabvuku constituency. Meanwhile, a seventh

alleged attacker was arrested on July 17, but it is unclear if he will also stand trial on July 20.

13. (C) Bhila denied bail for the initial three suspects after the prosecution said they were likely to abscond, but contrary to common practice he did not state his reasons for refusing bail. Bhila also refused to provide Mwonzora a written copy, so that an appeal could be launched. In fact, an Embassy local staff member present in the courtroom did not observe Bhila writing anything during the short proceedings. Zimbabwe Lawyer for Human Rights lawyer Otto Saki had earlier told post that Bhila, whom he said was also presiding over the Voice of the People trial (ref B), was likely to manipulate verdicts in the GOZ's favor. Bhila was not a trained lawyer and owed his position to political connections, rather than his qualifications.

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Anti-Senate MDC MP Accused Of Masterminding Attack  
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14. (C) In addition to the six charged with committing the assault, police on July 10 arrested anti-Senate MDC MP for Mabvuku-Tafara Timothy Mubawu and another anti-Senate MDC official in the district. Defense attorney Alec Muchadehama told post on July 18 that the two were charged with "participating in a gathering with intent to provoke public violence" for allegedly organizing a meeting the morning of the attack during which they told the youths that Mabvuku was a "no-go zone" for the opposing MDC faction and paid them Z\$20 million (or less than US\$45 at the parallel rate) to carry out the attack. However, Muchadehame said the only witness the state claimed had seen the payment had disappeared, seriously undermining the prosecution's case. Mubawu remains in jail and the High Court on July 20 will hear his appeal for bail.

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Commission Queries Victims, Despite Pro-Senate Rejection  
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15. (C) Haplias Zhou, one of the lawyers assigned to the anti-Senate MDC's investigation commission, on July 19 told post that the commission was making good progress and hoped to issue its final report before July 31. Zhou said the prosecutor had provided some court documents that the group had requested and commission members had visited the scene of the attack to interview people living in the neighborhood. The commission had also interviewed Stevenson and one other victim but had encountered reluctance from the others.

16. (C) In that regard, pro-Senate MDC Vice President Gibson Sibanda on July 17 issued a statement dismissing the commission and rejecting the faction's formal participation in it. Faction members were, however, free to participate in their private capacity. Justifying the decision, Sibanda stated that the anti-Senate faction had created the commission without first consulting the pro-Senate leadership and that there was no agreement on the terms of reference or how the commission findings would be dealt with.

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Comment  
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17. (C) It appears unlikely that the courts will get at the truth of this matter, as the government predictably appears set on using them to further its efforts to brand Tsvangirai and his faction as the instigators of political violence in Zimbabwe. Tsvangirai himself has not denied the possibility that some of his supporters may have been involved (though he claims without his or anyone else in the leadership's approval) and he has firmly and publicly urged his supporters to avoid succumbing to the temptation of violence. Moreover, after appearing to be caught off guard when the story broke, Tsvangirai moved decisively, establishing an investigative

commission, which is widely seen as independent and credible and is almost certainly the best hope for the truth. He has also been forthright in stating that if any of his faction are involved they must be expelled from the party, although it remains to be seen whether Tsvangirai will take decisive action, if warranted, following the commission's report.

18. (C) Absent any conclusive evidence of responsibility one way or the other, we are left to apply the old legal principle of *qui bono*.<sup>8</sup> Clearly first ZANU-PF and then the pro-senate MDC faction have the most to gain. While the government has been predictably gleeful over this incident, the most disappointing performance has come from the Mutambara faction. In its eagerness to score short-term points off Tsvangirai, particularly with the international community, it has made itself complicit in the government's efforts to paint the MDC rather than ZANU-PF as the source of the violence that has permeated Zimbabwean politics since the 2000 parliamentary elections. Even Trudy Stevenson, the best known of the victims, has in private told us she thinks her faction has overplayed its hand. In the long run, this hurts the whole of the democratic opposition and the only real winner is ZANU-PF.

DELL